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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:
CHRISTOPHER P CHAMBERS

Confirmation Number: 4686

Application No.: 10/762,294

Group Art Unit: 3654

Filed: January 23, 2004

Examiner: LANGDON, Evan H.

Title: WINCH

REVISED APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Appeal is from an Office Action mailed February 28, 2006, rejecting claims 1-5, 7-13, and 17-19 and in direct response to the Notice of Non-Compliant Appeal Brief dated June 26, 2007, of the above-identified patent application. This brief is in furtherance of the Notice of Appeal and the Pre-Appeal Brief Request both filed June 28, 2006. The Panel Decision from the Pre-Appeal Brief Review, mailed August 17, 2006, indicated that the application remains under appeal because there is at least one issue for appeal.

REQUIREMENTS OF 37 C.F.R. § 41.37

I. 37 C.F.R. § 41.37 (c)(1)(i) – Real Party in Interest

The real party in interest is Maxwell Marine Limited, the assignee of record at Reel 014927, Frames 0663-0664.

II. 37 C.F.R. § 41.37 (c)(1)(ii) – Related Appeals and Interferences

There exist no known related appeals or interferences.

III. 37 C.F.R. § 41.37 (c)(1)(iii) – Status of Claims

Pending: Claims 1-5, 7-13, and 17-19

Cancelled: Claims 6 and 14-16

Rejected: Claims 1-5, 7-13, and 17-19

Allowed: None

On Appeal: Claims 1-5, 7-13, and 17-19

IV. 37 C.F.R. § 41.37 (c)(1)(iv) – Status of Amendments

On May 30, 2006 a Request for Reconsideration was filed in response to the February 28, 2006 Final Rejection. In response to the May 30, 2006 Request for Reconsideration, the Patent Office issued a June 7, 2006 Advisory Action, which stated that the “112 1st Paragraph rejection of claim 18 has been withdrawn.” Otherwise, the Request for Reconsideration was deemed to not place the application in condition for allowance.

On June 28, 2006, a Pre-Appeal Brief Request for Review was filed. In response to that Request, the Patent Office issued an August 17, 2006 Notice of Panel Decision, which stated that the application “remains under appeal because there is at least one actual issue for appeal.”

V. 37 C.F.R. § 41.37 (c)(1)(v) – Summary of Claimed Subject Matter

(All citations to page, paragraph, and line number in this section refer to the Applicant’s specification, as-filed.)

A. INDEPENDENT CLAIMS

Independent claim 1 recites a guide for a rope or chain (p. 7, para. 0055, lines 1-4, Fig. 4; p. 9, para. 0061, lines 1-5, ref. no. 107, Figs. 7-10) comprising: a base plate (p. 8, para. 0056, lines 1-2, ref. no. 3, Fig. 4; p. 9, para 0061, lines 1-3, ref. no. 107, Figs. 7-10), an arcuate first arm (p. 8, para. 0056, lines 2-3, ref. no. 61, Fig. 4; p. 9, para 0061, lines 1-3, ref. no. 108, Figs. 7-10) pivotally connected to the base plate at a first pivot (p. 8, para. 0056, lines 2-3, ref. no. 62, Fig. 4; p. 9, para 0062, lines 1-2, ref. no. 115, Figs. 9-10); an arcuate second arm (p. 8, para. 0056, lines 5-6, ref. no. 64, Fig. 4; p. 9, para 0061, lines 2-3, ref. no. 109, Figs. 7, and 9-10) pivotally mounted to the first arm at a second pivot (p. 8, para. 0056, lines 5-6, ref. no. 67, Fig. 1; p. 9, para 0063, lines 1-3, ref. no. 120, Fig. 9) and so as in a rest position to form an acute angle with the first arm (p. 8, para. 0056, lines 6-9, Fig. 4 and 7-10), wherein the second pivot is spaced from the first pivot. As seen in Figs. 4 and 7-10 the pivots 62 and 67 and pivots 115 and 120 are spaced from each other, respectively. The guide also comprises a biasing means between the base plate and the second arm. The biasing means is identified in the specification as being spring 68 (p. 8, para. 0056, lines 11-14, Fig. 4), which is connected at one end to base 3 via post 69 and at the other end to the second arm 64 (p. 8, para. 0056, lines 11-14, Fig. 4) and spring 110 (p. 9, para 0061, lines 5-9, Figs. 9-10), which is connected at one end to base 102 via pivot pin 115 (p. 9, para. 0062, lines 1-5, Figs. 9-10) and at the other end to the second arm 109 (p. 9, para. 0063, lines 1-5, Figs. 9-10).

Independent claim 5 recites a guide for a rope or chain (p. 7, para. 0055, lines 1-4, Fig. 4; p. 9, para. 0061, lines 1-5, ref. no. 107, Figs. 7-10) comprising: a base plate (p. 8, para. 0056, lines 1-2, ref. no. 3, Fig. 4; p. 9, para 0061, lines 1-3, ref. no. 107, Figs. 7-10); and an arm (p. 8, para. 0056, lines 2-3, ref. no. 61, Fig. 4; p. 9, para 0061, lines 1-3, ref. no. 108, Figs. 7-10) pivotally connected to the base plate at a first pivotal connection (p. 8, para. 0056, lines 2-3, ref. no. 62, Fig. 4; p. 9, para 0062, lines 1-2, ref. no. 115, Figs. 9-10). The guide also comprises a biasing means between the base plate and the second arm. The biasing means is identified in the specification as being spring 68 (p. 8, para. 0056, lines 11-14, Fig. 4), which is connected at one end to base 3 via post 69 and at the other end to the second arm 64 (p. 8, para. 0056, lines 11-14, Fig. 4) and spring 110 (p. 9, para 0061, lines 5-9, Figs. 9-10), which is connected at one end to

base 102 via pivot pin 115 (p. 9, para.0062, lines 1-5, Figs. 9-10) and at the other end to the second arm 109 (p. 9, para. 0063, lines 1-5, Figs. 9-10). The guide also recites an elongate pressure member pivotally mounted on the arm (p. 8, para.0056, lines 5-6, ref. no. 64, Fig. 4; p. 9, para 0061, lines 2-3, ref. no. 109, Figs. 7, and 9-10) at a second pivotal connection (p. 8, para.0056, lines 5-6, ref. no. 67, Fig. 1; p. 9, para 0063, lines 1-3, ref. no. 120, Fig. 9) spaced from the first pivotal connection. As seen in Figs. 4 and 7-10 the pivots 62 and 67 and pivots 115 and 120 are spaced from each other, respectively.

B. SEPARATELY ARGUED DEPENDENT CLAIMS

Dependent claim 2 recites guide as claimed in claim 1, wherein the base plate carries a chain wheel (10 and 11), wherein the chain wheel has a periphery and the arms are positioned adjacent the periphery of the chain wheel (p. 8, para.0056, lines 11-14, ref. nos. 10 and 11, Fig. 1; p. 9, para 0062, lines 1-5, ref. no. 10, Figs. 7-9).

Dependent claim 3 recites a guide as claimed in claim 1, wherein the biasing means comprises a spring (68, 110) connected to the second arm at a position between the first pivot and the second pivot. The biasing means is identified in the specification as being spring 68 (p. 8, para. 0056, lines 11-14, Fig.4), which is connected at one end to base 3 via post 69 and at the other end to the second arm 64 (p. 8, para. 0056, lines 11-14, Fig. 4) and spring 110 (p. 9, para 0061, lines 5-9, Figs. 9-10), which is connected at one end to base 102 via pivot pin 115 (p. 9, para.0062, lines 1-5, Figs. 9-10) and at the other end to the second arm 109 (p. 9, para. 0063, lines 1-5, Figs. 9-10).

Dependent claim 4 recites a guide as claimed in claim 1, wherein the second arm carries a pressure member (p. 8, para.0056, lines 9-10, ref. no. 65, Fig. 4; p. 9, para 0061, lines 1-7, ref. no. 109, Figs. 7, 9 and 10).

Dependent claim 7 recites a guide as claimed in claim 5, wherein the arm is substantially arcuate (p. 8, para.0056, lines 3-10, ref. nos. 61 and 64, Fig. 4; p. 9, para 0061, lines 3-5, ref. no. 108, Figs. 7-10).

Dependent claim 8 recites a guide as claimed in claim 5, wherein the pressure member is substantially arcuate (p. 8, para.0056, lines 6-10, ref. no. 65, Fig. 4; p. 9, para 0061, lines 1-7, ref. no. 109, Figs. 7, 9 and 10).

Dependent claim 9 recites a guide as claimed in claim 5, wherein the pressure member is substantially arcuate having a convex face (p. 8, para.0056, lines 6-10, ref. no. 65, Fig. 4; p. 9, para 0061, lines 1-7, ref. no. 109, Figs. 7, 9 and 10) and the second pivotal connection 120 of the pressure member 109 is adjacent the convex face of the pressure member (p. 9, para 0063, lines 1-6, ref. nos. 120 and 109, Figs. 7-10).

Dependent claim 10 recites a guide as claimed in claim 5, wherein the base plate carries at least one chain wheel (10 and 11) having a periphery and the first pivotal connection (62, 115) is adjacent the periphery of the chain wheel (p. 8, para.0056, lines 2-14, Figs. 1 and 4; p. 9, para 0061, lines 1-9, Figs. 7-10).

Dependent claim 11 recites a guide as claimed in claim 5, wherein the second pivotal connection (66, 67) is displaced from a centre point of the pressure member (65, 109) towards the first pivotal connection (62, 115) (p. 8, para.0056, lines 5-15 and para. 0057, lines 1-9, Figs. 1 and 4; p. 9, para 0063, lines 1-6, Figs. 7-10).

Dependent claim 12 recites a guide as claimed in claim 5, wherein the biasing means comprises a spring (68, 110). The biasing means is identified in the specification as being spring 68 (p. 8, para. 0056, lines 11-14, Fig.4) and spring 110 (p. 9, para 0061, lines 5-9, Figs. 9-10).

Dependent claim 13 recites a winch (p. 1, para. 0002, lines 1-2) including a guide according to claim 1 (p. 7, para. 0055, lines 1-4 to p. 8, para.0056, lines 1-15, Figs. 1 and 4; p. 9, para. 0060, lines 1-4 to para. 0061, lines 1-5, Figs. 7-10).

Dependent claim 17 recites a guide as claimed in claim 1, wherein the second arm (64, 109) substantially overlays the first arm (61, 108) in the rest position (p. 8, para. 0056, lines 5-9, Figs. 1 and 4; p. 9, para 0061, lines 1-9, Figs. 7-10).

Dependent claim 18 recites a guide as claimed in claim 1, wherein the second arm (64) comprises a third arm (70) positioned below the first arm, and the biasing means (68) is connected to the third arm (70,) (p. 8, para. 0056, lines 14-16 to para. 0057, lines 1-9, Figs. 1 and 4).

Dependent claim 19 recites a guide as claimed in claim 4, wherein the pressure member is arcuate (p. 8, para. 0056, lines 6-10, ref. no. 65, Fig. 4; p. 9, para 0061, lines 1-7, ref. no. 109, Figs. 7, 9 and 10).

VI. 37 C.F.R. § 41.37 (c)(1)(vi) – Grounds of Rejection to be Reviewed on Appeal

Whether claims 1-5, 7-13, and 17-19 are unpatentable under 35 USC §102(b) as being anticipated by Bausenbach et al. (US 3,836,123) (hereinafter, “Bausenbach”)

VII. 37 C.F.R. § 41.37 (c)(1)(vii) – Argument

A. Rejection under 35 USC § 102(b) over U.S. Patent No. 3836123 to Bausenbach et al.

1. Claims 1, 2, 4, 13, 18, and 19

The rejection to claim 1 is respectfully traversed since Bausenbach fails to disclose each limitation of the claim.

Claim 1 recites a guide for a rope or chain comprising:

- a base plate;
- an arcuate first arm pivotally connected to the base plate at a first pivot;
- an arcuate second arm pivotally mounted to the first arm at a second pivot and so as in a rest position to form an acute angle with the first arm, wherein the second pivot is spaced from the first pivot; and
- biasing means between the base plate and the second arm.

The final Office Action states that Bausenbach discloses a “base plate 22, 24.” The Office Action refers to the cross brace 22, which is rigid element that is part of the rigid frame 14. The horizontal bar 24 is part of the rigid cross brace 22. See, Bausenbach, col. 2, lines 51-61.

The Office Action further states that Bausenbach discloses “an arcuate first arm 76 pivoted 92 to the base plate at a first pivot.” Initially, the Office Action has inaccurately recited the claim language. As set forth above, claim 1 recites that the arcuate first arm is “pivotally connected to the base plate at a first pivot.” However, lower jaw 76 of Bausenbach is not pivotally connected to the cross brace 22. And, in fact, *no* element is disclosed as being “pivotally connected to the base plate,” since no element is pivotally connected to the cross brace 22. As seen in Fig. 3 of Bausenbach, only the upper jaw 74 is connected to the cross brace 22, and even then the upper jaw 74 is not pivotally connected to the cross brace 22. Instead, the upper jaw 74 has a slide pad 112 welded thereto so that the slide pad 112, which has a planar surface complementary to the planar surface of bar 24, can *slide* along cross brace 22. Therefore, neither jaw 74 nor slide pad 112 pivot with respect to cross brace 22. See, Bausenbach, Figs. 3 and 4, and col. 5, lines 13-27. Thus, Bausenbach fails to disclose “an arcuate first arm pivotally connected to the base plate,” as claimed.

Additionally, the claim further provides that the arcuate first arm is pivotally connected to the base plate “at a first pivot.” Since, as set forth above, there is no element that is pivotally connected to the cross brace 22, there is no first pivot, as claimed. Additionally, the word “pivot” is described as “a pin, point, or short shaft on the end of which something rests and turns, or upon and about which something rotates or oscillates.” Random House Webster’s Unabridged Dictionary, V 3.0, Copyright 1999. This definition is consistent with how the word “pivot” is used in the specification, i.e., the word “pivot” is used to describe pins 62 and 115 (Bausenbach, p. 8, para. 0056, line 3, p. 9, para. 0062, line 2). Clearly, neither of the jaws of Bausenbach are pivotally connected to the cross brace 22 at a pivot, and the connection between slide pad 112 and cross brace 22 is certainly not “at a first pivot,” as claimed.

It appears that the Office Action is contending that the lower jaw 76 of Bausenbach is “pivotally connected” to the cross brace 22 via upper jaw 74 and slide pad 112. Assuming arguendo that such an interpretation is proper, Bausenbach still fails to disclose the claimed invention. The next line of claim 1 recites “an arcuate second arm pivotally mounted to the first

arm at a second pivot.” Since the upper jaw of Bausenbach 74 does not pivot with respect to cross brace 22 but, instead, slides (Bausenbach col. 5, lines 13 and 25), one cannot contend that the upper jaw 74 is “pivotally mounted” to the lower jaw 76, if satisfying the claim already necessarily requires that the lower jaw is “pivotally connected” to the upper jaw 74. In other words, even if one could contend that the lower jaw 76 is pivotally connected to the upper jaw 74 at a first pivot to satisfy line 3 of claim 1, one could not then say that the upper jaw 74 is then pivotally mounted to the lower jaw 74 at a second pivot to satisfy line 4 of claim 1 since only lower jaw 76 is moving relative to cross brace 23. (Although Bausenbach states that the jaws are arranged “in a clamshell manner so that they may open or close with respect to one another,” (Bausenbach, col. 4, lines 13-15) this occurs with only lower jaw 76 pivoting relative to cross brace 22. In other words, jaws 74 and 76 may be construed as *moving* relative to each other since lower jaw 76 moves relative to upper jaw 74, but both upper and lower jaws 74 and 76 do not *pivot* with respect to cross brace 22).

Further, claim 1 recites that “the second pivot is spaced from the first pivot.” The Office Action appears to contend that shaft 92 can be both the first pivot and second pivot simultaneously. As set forth previously in the Request for Reconsideration and in the Request for the Pre-Appeal Brief Review, it is not evident how the shaft 92 can be construed as both the first pivot and the second pivot. Following the logic of the Office Action, it appears that the Office Action contends that each “pivot” is anticipated by a cross-sectional area of the shaft 92 of Bausenbach that directly contacts either the upper jaw 74 or the lower jaw 76. Following this logic through, since both upper and lower jaws are formed of two struts (80, 82 and 86, 88, respectively), the shaft 92 would necessarily form four pivots, one for each strut, and those pivots would be alternating since the struts 80, 82, 86, and 88 alternate along the shaft 92. This strained interpretation of the word “pivot” in the Office Action is improper since, clearly, shaft 92 disclose a single pivot around which lower jaw 76 pivots with respect to upper jaw 76.

Still further, claim 1 recites that the biasing means is “between the base plate and the second arm.” The Office Action contends that this limitation is anticipated since the spring 106 of Bausenbach is “between the base plate and the second arm 74.” However, there is no explanation as to how such an interpretation is made. As seen in Fig. 3 of Bausenbach, the spring 106 is positioned below the lower jaw 74 and the cross brace 22 and clearly not “between the base plate and the second arm” as claimed.

For the reasons set forth above, Bausenbach fails to disclose each and every limitation of claim 1 and, therefore, Bausenbach fails to anticipate claim 1. Accordingly, the rejection to claim 1 should be withdrawn and the claim allowed.

Claims 2, 4, 13, 18, and 19 are believed to stand or fall with claim 1.

2. Claim 3

Claim 3 recites a guide as claimed in claim 1, “wherein the biasing means comprises a spring connected to the second arm at a position between the first pivot and the second pivot.” The Office Action contends that the spring 106 of Bausenbach is connected to upper jaw 74 between the first and second pivots. As explained above, the Office Action construes the shaft 92 as both the first and second pivots. Thus, as best seen in Fig. 3 of Bausenbach, the Office Action contends that somehow the spring 106, which is positioned entirely below the lower jaw 76, is connected to the upper jaw 74 between cross-sectional portions of the shaft 92. As such a construction is not disclosed in Bausenbach, Bausenbach fails to anticipate claim 1. Accordingly, the rejection to claim 1 should be withdrawn and the claim allowed.

3. Claim 5, 7, 8, 11 and 12

The rejection to claim 1 is respectfully traversed since Bausenbach fails to disclose each limitation of the claim.

Claim 1 recites a guide for a rope or chain comprising:

- a base plate;
- an arm pivotally connected to the base plate at a first pivotal connection;
- biasing means between the base plate and the arm; and
- an elongate pressure member pivotally mounted on the arm at a second pivotal connection spaced from the first pivotal connection.

The final Office Action states that Bausenbach discloses a “base plate 22, 24.” The Office Action refers to the cross brace 22, which is rigid element that is part of the rigid frame 14. The horizontal bar 24 is part of the rigid cross brace 22. See, Bausenbach, col. 2, lines 51-61.

The Office Action further states that Bausenbach discloses “an arm 76 pivotally mounted on the base plate 22, 24, at a first pivotal connection 92.” Initially, the Office Action has again

inaccurately recited the claim language. As set forth above, claim 5 recites that the arm is “pivotally connected to the base plate at a first pivotal connection.” However, as mentioned above, lower jaw 76 of Bausenbach is not pivotally connected to the cross brace 22. And, in fact, *no* element is disclosed as being “pivotally connected to the base plate,” since no element is pivotally connected to the cross brace 22. As seen in Fig. 3 of Bausenbach, only the upper jaw 74 is connected to the cross brace 22, and even then the upper jaw 74 is not pivotally connected to the cross brace 22. Instead, the upper jaw 74 has a slide pad 112 welded thereto so that the slide pad 112, which has a planar surface complementary to the planar surface of bar 24, can *slide* along cross brace 22. Therefore, neither jaw 74 nor slide pad 112 pivot with respect to cross brace 22. See, Bausenbach, Figs. 3 and 4, and col. 5, lines 13-27. Thus, Bausenbach fails to disclose “an arcuate first arm pivotally connected to the base plate,” as claimed.

Additionally, the claim further provides that the arm is pivotally connected to the base plate “at a first pivotal connection.” Since, as set forth above, there is no element that is pivotally connected to the cross brace 22, there is no first pivotal connection, as claimed.

It appears that the Office Action is contending that the lower jaw 76 of Bausenbach is “pivotally connected” to the cross brace 22 via upper jaw 74 and slide pad 112. Assuming arguendo that such an interpretation is proper, Bausenbach still fails to disclose the claimed invention. The next line of claim 5 recites “an elongated pressure member pivotally mounted on the arm at a second pivotal connection.” Since the Office Action construes the upper jaw 74, 78 as the pressure member and since the upper jaw 74 of Bausenbach does not pivot with respect to cross brace 22 but, instead, slides (Bausenbach col. 5, lines 13 and 25), one cannot contend that the upper jaw 74 is “pivotally mounted” on the lower jaw 76, if satisfying the claim already necessarily requires that the lower jaw is “pivotally connected” to the upper jaw 74. In other words, even if one could contend that the lower jaw 76 is pivotally connected to the upper jaw 74 at a first pivotal connection to satisfy line 3 of claim 5, one could not then say that the upper jaw 74 is then pivotally mounted on the lower jaw 74 at a second pivotal connection to satisfy lines 5 and 6 of claim 5 since only lower jaw 76 is moving relative to cross brace 23. (Again, although Bausenbach states that the jaws are arranged “in a clamshell manner so that they may open or close with respect to one another,” (Bausenbach, col. 4, lines 13-15) this occurs with only lower jaw 76 pivoting relative to cross brace 22. In other words, jaws 74 and 76 may be

construed as *moving* relative to each other since lower jaw 76 moves relative to upper jaw 74, but both upper and lower jaws 74 and 76 do not *pivot* with respect to cross brace 22).

Further, claim 5 recites that the second pivotal connection is “spaced from the first pivotal connection.” The Office Action appears to contend that shaft 92 can be both the first pivot and second pivotal connections simultaneously. As set forth previously in the Request for Reconsideration and in the Request for the Pre-Appeal Brief Review, it is not evident how the shaft 92 can be construed as both the first pivotal connection and the second pivotal connection. Following the logic of the Office Action, it appears that the Office Action contends that each “pivotal connection” is anticipated by a cross-sectional area of the shaft 92 of Bausenbach that directly contacts either the upper jaw 74 or the lower jaw 76. This interpretation of the phrase “pivotal connection” in the Office Action is improper since, clearly, shaft 92 disclose a single pivotal connection around which lower jaw 76 pivots with respect to upper jaw 76.

Still further, claim 5 recites that the biasing means is “between the base plate and the arm.” The Office Action contends that this limitation is anticipated since the spring 106 of Bausenbach is “between the base plate and the arm.” However, there is no explanation as to how such an interpretation is made. As seen in Fig. 3 of Bausenbach, the spring 106 is positioned below both the upper and lower jaws 74 and 76 as well as the cross brace 22, and clearly not “between the base plate and the arm” as claimed.

For the reasons set forth above, Bausenbach fails to disclose each and every limitation of claim 5 and, therefore, Bausenbach fails to anticipate claim 5. Accordingly, the rejection to claim 5 should be withdrawn and the claim allowed.

Claims 7, 8, 11 and 12 are believed to stand or fall with claim 5.

4. Claim 9

Claim 9 recites that “the second pivotal connection of the pressure member is adjacent the convex face of the pressure member.” The Office Action contends that “[s]ince the pressure member of Bausenbach is round and the pivot is in the center, the pivot point is inherently adjacent both the convex and concave sides of the pressure member.” However, the Office Action fails to rely on the correct claim language. Per claim 5, the pressure member is pivotally mounted on the arm and the arm is being construed by the Office Action as the lower jaw 76 of Bausenbach. Thus, it is inaccurate to state that the lower jaw 76 “is round and the pivot is in the

center.” The Office Action construes the shaft 92 to be the pivotal connection, which is at one end of the upper jaw 74 and which is positioned adjacent the innermost concave face of the upper jaw 74 and, therefore, not adjacent the outermost convex face of the upper jaw 74. Thus, Bausenbach fails to disclose each and every limitation of claim 9 and, therefore, Bausenbach fails to anticipate claim 9. Accordingly, the rejection to claim 9 should be withdrawn and the claim allowed.

5. Claim 10

Claim 10 recites that “the first pivotal connection is adjacent the periphery of the chain wheel.” The Office Action merely contends that the “pivot point” is adjacent the periphery of the chain wheel. However, since the shaft 92, which is construed by the Office Action as the pivotal connection, is far removed and remote from the drum 38, the shaft 92 is not “adjacent” the periphery of the chain wheel as claimed. Thus, Bausenbach fails to disclose each and every limitation of the claim and, therefore, Bausenbach fails to anticipate the claim. Accordingly, the rejection to claim 10 should be withdrawn and the claim allowed.

6. Claim 17

Claim 17 recites that “the second arm substantially overlays the first arm in the rest position.” This feature is not explained in the final Office Action. The word “substantially” dictates that overlay is not merely a partial overlay as illustrated in Bausenbach wherein only a small fraction of the jaws 74 and 76 overlay, but a “substantial” overlay wherein almost all portions of the arms overlay as illustrated, for example as evident from Fig. 4, and from Figs. 7-10. Thus, Bausenbach fails to disclose each and every limitation of the claim and, therefore, Bausenbach fails to anticipate claim 17. Accordingly, the rejection to claim 17 should be withdrawn and the claim allowed.

VIII. 37 C.F.R. § 41.37 (c)(1)(viii) – Claims Appendix

1. (Previously presented) A guide for a rope or chain comprising:
 - a base plate;
 - an arcuate first arm pivotally connected to the base plate at a first pivot;
 - an arcuate second arm pivotally mounted to the first arm at a second pivot and so as in a rest position to form an acute angle with the first arm, wherein the second pivot is spaced from the first pivot; and
 - biasing means between the base plate and the second arm.
2. (Previously presented) A guide as claimed in claim 1, wherein the base plate carries a chain wheel, wherein the chain wheel has a periphery and the arms are positioned adjacent the periphery of the chain wheel.
3. (Previously presented) A guide as claimed in claim 1, wherein the biasing means comprises a spring connected to the second arm at a position between the first pivot and the second pivot.
4. (Original) A guide as claimed in claim 1, wherein the second arm carries a pressure member.
5. (Previously presented) A guide for a rope or chain comprising:
 - a base plate;
 - an arm pivotally connected to the base plate at a first pivotal connection;

biasing means between the base plate and the arm; and
an elongate pressure member pivotally mounted on the arm at a second pivotal
connection spaced from the first pivotal connection.

6. (Canceled)

7. (Original) A guide as claimed in claim 5, wherein the arm is substantially arcuate.

8. (Original) A guide as claimed in claim 5, wherein the pressure member is substantially
arcuate.

9. (Previously presented) A guide as claimed in claim 5, wherein the pressure member is
substantially arcuate having a convex face and the second pivotal connection of the pressure
member is adjacent the convex face of the pressure member.

10. (Currently amended) A guide as claimed in claim 5, wherein the base plate carries at
least one chain wheel having a periphery and the first pivotal connection is adjacent the
periphery of the chain wheel.

11. (Previously presented) A guide as claimed in claim 5, wherein the second pivotal
connection is displaced from a centre point of the pressure member towards the first pivotal
connection.

12. (Original) A guide as claimed in claim 5, wherein the biasing means comprises a spring.

13. (Original) A winch including a guide according to claim 1.

14.-16. (Canceled)

17. (Previously presented) A guide as claimed in claim 1, wherein the second arm substantially overlays the first arm in the rest position.

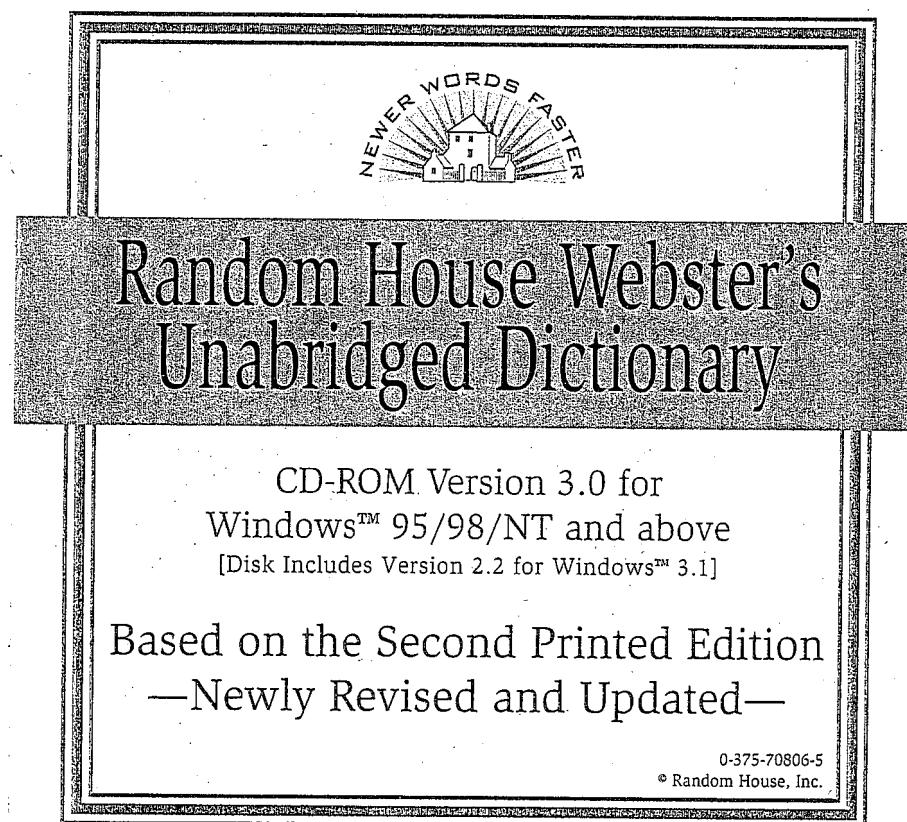
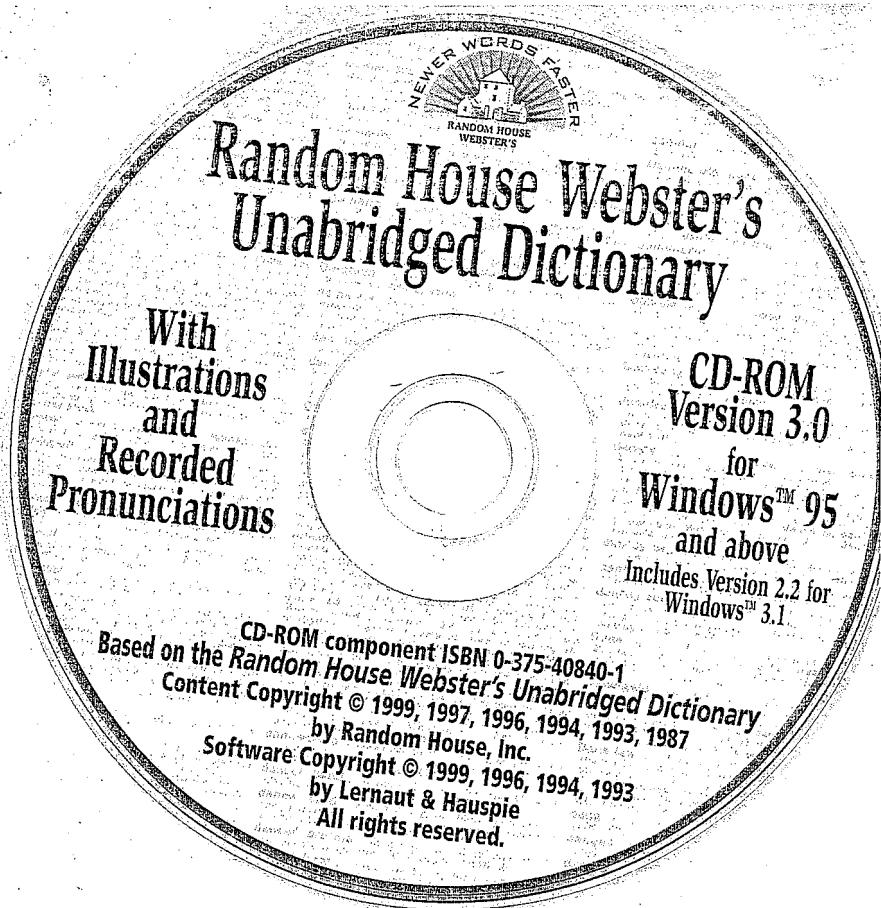
18. (Previously presented) A guide as claimed in claim 1, wherein the second arm comprises a third arm positioned below the first arm, and the biasing means is connected to the third arm.

19. (Previously presented) A guide as claimed in claim 4, wherein the pressure member is arcuate.

IX. 37 C.F.R. § 41.37 (c)(1)(ix) – Evidence Appendix

Random House Webster's Unabridged Dictionary, V 3.0, Copyright 1999.

Evidence Appendix





piv·ot  (piv'ĕt), *n.*

1. a pin, point, or short shaft on the end of which something rests and turns, or upon and about which something rotates or oscillates.
 2. the end of a shaft or arbor, resting and turning in a bearing.
 3. any thing or person on which something or someone functions or depends vitally: *He is the pivot of my life.*
 4. the person in a line, as of troops on parade, whom the others use as a point about which to wheel or maneuver.
 5. a whirling about on one foot.
 6. *Basketball.* the act of keeping one foot in place while holding the ball and moving the other foot one step in any direction, so as not to be charged with walking.
 7. *Basketball.*
 - a. an offensive position in the front court, usually played by the center, in which the player stands facing away from the offensive basket and serves as the pivot of the offense by setting up plays through passing, making screens, and taking shots.
 - b. Also called **pivotman**. the player who plays in the pivot position.
 8. *Dentistry.* (formerly) dowel (def. 4).
- v.i.
9. to turn on or as on a pivot.
10. *Basketball.* to keep one foot in place while holding the ball and moving the other foot one step in any direction.
- v.t.
11. to mount on, attach by, or provide with a pivot or pivots.
[1605–15; < F *pivot* (n.), *pivoter* (v.), OF < ?]

X. **37 C.F.R. § 41.37 (c)(1)(x) – Related Proceedings Index**

None

CONCLUSION

For at least the foregoing reasons, Appellant respectfully requests that the rejection of each of pending claims 1-5, 7-13, and 17-19 be reversed.

Respectfully submitted,

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